

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION - DAYTON

KARA SCHAUF,

Plaintiff,

vs.

ESTES EXPRESS LINES, INC. D/B/A
ESTES SUREMOVE, ET AL.

Defendants.

CASE NO. 3:19-CV-00370

(CASE NO. 2019 CV 03252 REMOVED
FROM MONTGOMERY COUNTY
COURT OF COMMON PLEAS)

JUDGE _____

**NOTICE OF REMOVAL TO
FEDERAL COURT BY DEFENDANT
ESTES EXPRESS LINES**

TO: THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO, WESTERN DIVISION

Pursuant to 28 U.S.C. §1441 and §1446, Defendant Estes Express Lines, incorrectly identified as Estes Express Lines, Inc. d/b/a Estes SureMove, hereby gives notice of the removal of the above-referenced matter from the Common Pleas Court of Montgomery County, Ohio, in which it is now pending, to the United States District Court for the Southern District of Ohio, Western Division - Dayton.

FIRST: This is a personal injury action that was filed in the Common Pleas Court of Montgomery County, Ohio on July 12, 2019, bearing Case No. 2019 CV 03252. The Complaint names two defendants, Estes Express Lines, Inc., d/b/a Estes SureMove (“Estes Express Lines”) and James Crowl.

SECOND: Estes Express Lines was served with the Summons and Complaint on July 16, 2019.

THIRD: James Crowl was served with the Summons and Complaint on July 18, 2019.

FOURTH: Plaintiff Kara Schauf alleges that on July 15, 2017, at approximately 1:00 a.m., she was driving a Ford Escape in the northbound lane of Meadow Drive in Mason, Ohio when she collided with a semi-trailer owned by Estes Express that was parked along the curb in front of James Crowl's residence. A copy of the Complaint is attached hereto as Exhibit A.

FIFTH: In her Complaint, Plaintiff alleges she sustained "significant facial wounds, pain, suffering, and permanent disfigurement." During the discovery phase of this lawsuit, Plaintiff was issued interrogatories asking for Plaintiff's medical providers, past and future medical treatment, past and future medical expenses, and related issues. In response to these interrogatories, Plaintiff referred to a pre-suit demand letter sent by her attorney that outlines these items, argues for uncapped non-economic damages, states that Plaintiff incurred medical expenses as a result of the subject incident in the amount of \$44,497.14, and states that "we value the non-economic damages [Plaintiff] sustained as a result of the subject incident in the amount of \$265,000.00."

SIXTH: Plaintiff's allegations regarding her physical injuries, expenses for past and future medical care constitute an amount in controversy that exceeds \$75,000.00 exclusive of costs and interest.

SEVENTH: Plaintiff is, and has been at all times relevant herein, a resident and citizen of the State of Ohio.

EIGHTH: Estes Express Lines is a Virginia corporation with its headquarters and principal place of business in Richmond, Virginia.

NINTH: James Crowl is presently a Colorado citizen and a resident of Colorado Springs, Colorado.

TENTH: James Crowl did not consent to removal of the case to Federal Court. Crowl's lack of consent was established through several conversations between counsel for Estes Express Lines and counsel for James Crowl that took place between July 13, 2019 and July 15, 2019. For this reason, and pursuant to 28 U.S.C. 1446(b)(2)(A), the case was not removable.

ELEVENTH: On November 19, 2019, Plaintiff voluntarily dismissed her claim against James Crowl.

TWELFTH: The lawsuit may now be removed from the Common Pleas Court of Montgomery County, Ohio to the United States District Court for the Southern District of Ohio pursuant to 28 U.S.C. 1441(b) and (c); 28 U.S.C. 1446(b)(3); and 28 U.S.C. 1332 (a).

THIRTEENTH: Defendant attaches hereto a copy of all process, pleadings and orders on file in said state proceeding and a copy of the Notice of Filing Notice of Removal which Defendant will serve upon Plaintiff promptly after the filing of this Notice of Removal, pursuant to 28 U.S.C. § 1446(a). See Exhibit A.

FOURTEENTH: Defendant will file a copy of the Notice of Removal with the Clerk of Common Pleas Court of Montgomery County, Ohio immediately after filing hereof.

FIFTEENTH: No further proceedings have commenced in this action in the Montgomery County Court of Common Pleas other than what appears in Exhibit A.

Respectfully submitted,

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PROOF OF SERVICE

The undersigned hereby certifies that on November 21, 2019, a true and accurate copy of the foregoing has been filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system and via email and pursuant to Civ.R. 5(B)(2)(c) by mailing it by United States Mail to:

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